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Attorney for Numerous Wild Fire Claimants

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

PG&E CORPORATION

- and -

PACIFIC GAS AND ELECTRIC
COMPANY,

Debtors.

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11
(Lead Case)
(Jointly Administered)

**MOTION TO ALLOW/DEEM TIMELY
LATE FILING OF PROOF OF CLAIM
BY TRINIDAD AND ROBIN
SANDOVAL, MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF ROY E. MILLER**

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

** All papers shall be filed in the Lead Case,
No. 19-30088 (DM).*

Date: June 24, 2020
Time: 10:00 a.m. (Pacific Time)
Place: United States Bankruptcy Court
Courtroom 17, 16th Floor

Objection Deadline: June 10, 2020

TO THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCH COURT
JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED
PARTIES:

Watts Guerra LLP, together with several other firms represent thousands of victims of the
Fires started by PG&E in 2017 (generally referred to as the “North Bay Fires”) and 2018 (“Camp
Fire”) and 2019 (“Kincade Fire”).

1 Watts Guerra LLP respectfully files this motion on behalf of Trinidad and Robin Sandoval,
2 (collectively, “Movants”) to deem timely late filing of proofs of claims (“Motion”).

3 **I. SUMMARY OF ARGUMENT**

4 A proof of claim may be deemed timely upon a showing of excusable neglect and lack of
5 prejudice. In this case, due to a variety of stressors arising from the Tubbs Fire, Movants were
6 unable to timely file their proofs of claims. Because there is no danger of prejudice to the Debtors
7 as Debtors’ estates are solvent, and all creditors stand to be paid, the Motion should be granted to
8 allow these survivors to have their claims deemed timely. This Court must determine whether to
9 grant the Motion.

10 **II. FACTUAL BACKGROUND**

11 **A. Movants’ Claims Arising From Tubbs Fire¹**

12 Creditors, Trinidad and Robin Sandoval are survivors of the Tubbs Fire that occurred in
13 2017. On December 20, 2019, Hansen & Miller’s offices were closed for its annual firm
14 Christmas party. Trinidad and Robin Sandoval came by the office to sign up to become clients for
15 a PG&E claim. They owned a home in Coffee Park and their home and belongings were
16 destroyed in the Tubbs Fire. The office door was unlocked (as the office was closed for the
17 holiday party) and one of the legal assistants left the party in the firm’s offices and met with the
18 Sandoval’s. They provided information, copies of drivers licenses, and signed fee agreements.
19 The Sandoval’s left, and the legal assistant misplaced the documents and they were not handled
20 based on the established written firm protocol. As a result the Sandoval’s paperwork was filed
21 without having their claim first submitted for processing. Thus the Sandoval’s took action
22 necessary to have a claim prior to the deadline, but it was not discovered until a few days after the
23 deadline that their claims were not filed. The Sandoval’s acted timely and their claim was not
24 filed due to excusable neglect.
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28 ¹ See Ex. 1, Declaration of Roy E. Miller.

1 On February 26, 2020, Watts Guerra LLP filed claim numbers 97027 and 97032 on behalf
2 of Movants (“Subject Proofs of Claims”). True and correct copies of the Subject Proofs of Claim
3 are collectively attached to the Roy E. Miller Declaration as Exhibit “A”.

4 **B. General Procedural Background**

5 On January 29, 2019, PG&E Corporation and Pacific Gas and Electric Company
6 (“Debtors” or “PG&E”) commenced with the Court voluntary cases (“Chapter 11 Cases”) under
7 chapter 11 of the United States Code (“Bankruptcy Code”). PG&E’s chapter 11 filings were
8 necessitated by a confluence of factors resulting from catastrophic fires that occurred in Northern
9 California prior to the Petition Date, and PG&E’s potential liabilities arising therefrom.

11 Since, the Debtors continue to operate their businesses and manage their properties as
12 debtors in possession pursuant to 11 U.S.C. §§ 1107(a) & 1108, the Debtors’ Chapter 11 Cases
13 are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the
14 Federal Rules of Bankruptcy Procedure (“FRBP”).

15 **C. Plan, Disclosure Statement, and the Solicitation Procedures Motion**

16 On January 31, 2020, as Dk. No. 5590, the Debtors filed an Amended Chapter 11 Plan
17 Debtors' and Shareholder Proponents' Joint Chapter 11 Plan of Reorganization Dated January 31,
18 2020.

19 On February 7, 2020, as Dk. No. 5700, the Debtors filed a Disclosure Statement for the
20 Amended Plan.

21 On February 19, 2020, as Dk. No. 5835, the Debtors filed Motion for Entry of an Order (I)
22 Approving Form and Manner of Notice of Hearing on Proposed Disclosure Statement; (II)
23 Establishing and Approving Plan Solicitation and Voting Procedures; (III) Approving Forms of
24 Ballots, Solicitation Packages, and Related Notices; and (IV) Granting Related Relief (the
“Solicitation Procedures Motion”).

25 On March 16, 2020, as Dk. No. 6320, the Debtors filed the Amended Chapter 11 Plan
26 Debtors' and Shareholder Proponents' Joint Chapter 11 Plan of Reorganization Dated March 16,
27 2020.

28 On March 17, 2020, the Solicitations Procedures Motion was approved. Since then, the

1 Disclosure Statement and Plan have been circulated for votes.

2 **D. Extended Bar Date for Fire Victim Creditors**

3 The deadline for filing proofs of claim with respect to any prepetition claim including, but
4 not limited to, all claims of Fire Claimants, Wildfire Subrogation Claimants, Governmental Units
5 and Customers, and for the avoidance of doubt, including all secured claims and priority claims,
6 against either of the Debtors was October 21, 2019 at 5:00 p.m. (“General Bar Date”).

7 The deadline for filing claims was extended to December 31, 2019 (“Extended Bar Date”),
8 solely for the benefit of any non-governmental Fire Claimants who did not file Proofs of Claim
9 by the General Bar Date.

10 **III. Legal Argument**

11 In a Chapter 11 case, the time to file a proof of claim may be extended under certain
12 circumstances. Fed. R. Bank. Pro. 3003(c)(3); Fed. R. Bank. Pro. 9006(b)(1). The bankruptcy
13 court has “broad equitable powers” in a Chapter 11 case with respect to the timing requirement
14 for proofs of claim. *Pioneer Inventory Services v. Brunswick Associates Limited Partnership*, 507
15 U.S. 380, 389 (1993). All in all, Rule 9006(b)(1) allows “late filings caused by inadvertence,
16 mistake, or carelessness, not just those caused by intervening circumstances beyond the party's
17 control.” *Id.*, at 381. Even a creditor that did in fact receive notice may file a proof of claim
18 notwithstanding the expiration of a claims bar date in a Chapter 11 case upon a showing of
19 “excusable neglect.” *Id.* At 394-95 (“Had respondents here been prevented from complying with
20 the bar date by an act of God or some other circumstance beyond their control, the Bankruptcy
21 Court plainly would have been permitted to find ‘excusable neglect’ [under FRBP 9006].”).

22 In considering whether a creditor’s failure was the product of “excusable neglect,” the
23 court should take “account of all relevant circumstances surrounding the party’s omission,”
24 including “the danger of prejudice to the debtor, the length of the delay and its potential impact
25 on judicial proceedings, the reason for the delay, including whether it was within the reasonable
26 control of the movant, and whether the movant acted in good faith.” *Id.* at 395; *see also Corning*
27 *v. Corning (In re Zilog, Inc.)*, 450 F.3d 996 (9th Cir. 2006) (noting *Pioneer*’s non-exhaustive list
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1 of relevant factors). Again, a late-filed proof of claim is allowable where a creditor had actual
2 notice of the bankruptcy but, due to some external reason, failed to file a proof of claim or did not
3 realize that she had to, before the bar date. *See, e.g., ZiLOG, Inc. v. Corning (In re ZiLOG, Inc.)*,
4 450 F.3d 996, 1003-07 (9th Cir. 2006) (applying the *Pioneer* factors). All in all, Rule 9006(b)(1)
5 allows “late filings caused by inadvertence, mistake, or carelessness, not just those caused by
6 intervening circumstances beyond the party's control.” *Pioneer*, 507 U.S. at 381. Here,
7 consideration of all four *Pioneer* factors—as well as a fifth engrafted onto the *Pioneer* analysis by
8 some courts—weighs in favor of Movants.

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11 Because in this case there is no danger of prejudice to the Debtors, the first *Pioneer* factor
12 weighs overwhelmingly in Movant’s favor. Debtors’ estates are solvent, and all creditors stand to
13 be paid. *See, e.g., In re Best Payphones, Inc.*, 523 B.R. 54, 75-6 (Bankr. S.D.N.Y. 2015) and *In re*
14 *Sheehan Mem’l Hosp.*, 507 B.R. 802, 803 (Bankr. W.D.N.Y. 2014) (where the chapter 11 estate is
15 solvent, “the proper remedy for a late filing is not the expungement of a claim, but its allowance
16 as a tardily filed claim only.). Secondly, immediately, upon receiving all the necessary
17 information the Subject Proofs of Claims were filed. Thirdly, the delay in filing the Subject
18 Proofs of Claim is reasonable considering the estrangement of Movants and the accompanying
19 stress of relocating after the emotional trauma they experienced as survivors of the Tubbs Fire.
20 Lastly, any prospect of prejudice beyond solvency is unlikely given (a) distributions have not been
21 made; and (b) the value of Movants’ claims relative to the value of Debtors’ estates is low. *See,*
22 *e.g., In re Keene Corp.*, 188 B.R. 903, 910 (Bankr. S.D.N.Y. 1995) (size of the late claim in
23 relation to the estate is a consideration in determining prejudice).

24 **IV. Conclusion**

25 For the reasons set forth above, the Movants respectfully request that this Court enter an
26 order pursuant to Bankruptcy Rule 9006(b)(1) as follows:

- 27 1. Granting the Motion;
- 28 2. Finding that Subject Proofs of Claims filed by Movants are to be allowed as having
been timely filed;

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3. Granting such other or further relief as the Court deems just and proper.

Dated: May 27, 2020.

Respectfully submitted,

WATTS GUERRA LLP

By: /s/ Mikal C. Watts
Mikal C. Watts